

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

Jonathan Paul Catlin  
Plaintiff

148

Cherry Creek Strategic Advisors, LLC  
Defendant

CASE NO. 17CV0163  
JUDGE: \_\_\_\_\_

COMPLAINT FOR VIOLATIONS OF 47  
U.S.C. §227;  
ACTUAL DAMAGES, STATUATORY  
DAMAGES and PUNITIVE DAMAGES

DEMAND FOR TRIAL BY JURY

## **INTRODUCTION & OPENING STATEMENT**

This is an action brought by Plaintiff against Cherry Creek Strategic Advisors, LLC for violations of the Telephone Consumer Protection Act, 47 USC § 227 (herein after "TCPA").

## **I. JURISDICTION and VENUE**

1. This action arises under 47 U.S.C. §227. The jurisdiction of this court is founded on federal question jurisdiction, 28 U.S.C. §1331.
2. Venue is proper because the events giving rise to Plaintiff's causes of action occurred within this district, as provided in 28 U.S.C. § 1331(b)(2).

## II. PARTIES

4. Plaintiff, Jonathan Paul Catlin, herein after "Plaintiff", at all times relevant herein, was domiciled in the town of Naples, New York.
5. Plaintiff is informed and believes that Defendant, Cherry Creek Strategic Advisors, LLC, herein after "Defendant", is a foreign LLC authorized to do business in New York state.

1 Defendant's registered mailing address is: Cherry Creek Strategic Advisors, LLC, 17011 Lincoln  
2 Ave #628, Parker, CO 80134.  
3  
4

5 **PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT**

6. The plaintiff has not begun any other lawsuits in state or federal court dealing with the  
7 same facts involved in this action.  
8

9 **COUNT I**

10 (47 U.S.C. §227; Prohibitions on calls to a cell phone)

11 7. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 6 above  
12 and incorporates the same as if set forth in full.  
13

14 8. From about August 5 through October 10, 2013, Defendant called Plaintiff's cell phone  
15 about 40 times; Plaintiff intends to propound discovery to reveal the exact number of calls placed  
16 to Plaintiff's cell phone by Defendant.

17 9. Defendant used an automatic telephone dialing system to place these calls (See Exhibit  
18 B).

19 10. Defendant used an artificial and/or prerecorded voice to leave messages on Plaintiff's cell  
20 phone.

21 11. Plaintiff has no contract or business relationship with Defendant, and has never given  
22 Defendant express consent to call Plaintiff's cell phone.

23 12. As a direct result of Defendant's actions described in Count I, Plaintiff has suffered  
24 harassment, disruption of work flow, loss of productivity of work, disruption of family life, loss  
25 of quality time with family, loss of sleep, and emotional distress including, but not limited to,  
stress, agitation, anxiety, and frustration, all to his injury.

26 13. The federal basis for this claim is 47 U.S.C. §227(b)(1)(A) and 47 U.S.C. §227(b)(3).  
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28

29 **SUMMARY OF RELIEF SOUGHT**

30 **WHEREFORE**, Plaintiff prays for relief against Defendant as follows:

31 a) For statutory damages of \$1,500.00 per call.  
32 b) For actual damages.  
33 c) For punitive damages in the amount allowed by law.  
34 d) Reasonable Attorneys fees, and costs; and,  
35 e) Such other relief as this Court may find to be just and proper.

1  
2                   **DEMAND FOR TRIAL BY JURY**  
3

4                   **I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND**  
5                   **CORRECT TO THE BEST OF MY KNOWLEDGE.**

6  
7                   EXECUTED this 4<sup>th</sup> day of April, 2014.  
8

9  
10                     
11                   Original Signature

12                   Jonathan Paul Catlin  
13                   c/o PO Box 621  
14                   Naples, New York  
15                   Cell: 208-627-3950  
16                   e-mail: myfriendsthousand@gmail.com  
17

18                   *In Proper Person*  
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## Exhibit A

## AFFIDAVIT OF JONATHAN PAUL CATLIN

STATE OF NEW YORK )  
COUNTY OF ~~Yates~~ Ontario )  
 ) ss  
 )

Comes now, Jonathan Paul Catlin, your Affiant, being competent to testify and being over the age of 21 years of age, after first being duly sworn according to law to tell the truth to the facts related herein states that he has firsthand knowledge of the facts stated herein and believes these facts to be true to the best of his knowledge.

1. Affiant has not been presented with any contract or agreement that presents Affiant and Cherry Creek Strategic Advisors, LLC (herein after Cherry Creek) as parties to said contract or agreement.
2. Affiant has never given express consent to Cherry Creek to call Affiant or Affiant's personal cell phone.
3. From about August 5 through October 10, 2013, Cherry Creek called Affiant's cell phone numerous times.
4. Cherry Creek placed numerous calls to Affiant's cell phone using an automatic telephone dialing system.
5. Affiant received multiple voice messages on his cell phone from Cherry Creek which used an automated and/or prerecorded voice.

Further, Affiant sayeth naught.

Jonathan Paul Catlin  
Jonathan Paul Catlin

4/4/14  
Date

State of New York  
County of ~~Yates~~ Ontario

Subscribed and sworn to (or affirmed) before me on this 4 day of April, 2014 by Jonathan Paul Catlin, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Melody M. Jerome (Seal)  
Notary Public  
MELODY M. JEROME, Notary Public  
State of New York Ontario County  
Registration #4596626  
My Commission Expires 5-18-2014

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## Exhibit B



## How Cherry Creek Strategic Advisors

### MANAGEMENT EXPERIENCE

Cherry Creek Strategic Advisors is led by a dynamic and visionary Senior Management Team. This team combines their professional experience to include over 70 years of industry experience, and is reflected in our ethics, our success and our dedication to the success of our clients.

Our Recovery Team is led by Site Managers, Collection Supervisors, and Compliance Administrators. These individuals are responsible for leading, coaching and motivating our Account Managers to meet and exceed collection goals, while assuring legal compliance every step of the way. Balancing compliance against recovery goals while fostering a customer-service oriented approach to minimize complaints, our supervisory personnel have indeed honed their leadership skills into a fine art.

### DEBT COLLECTION EXPERIENCE

The CCSA Team is staffed with helpful and knowledgeable debt collectors ready to assist consumers to resolve their obligations. Our average Account Manager has over 3 years of industry experience, but all our staff is required to attend regular training sessions to stay ahead of the ever changing environment. We believe that our staff needs to improve their ability and knowledge every day.

### TECHNOLOGY

CCSA has invested in creating a real-time, web-based infrastructure that automates the entire life-cycle of a collection account. This web based system provides for online account placement, adjustment and look-ups; automated handling of payment data and monthly remittances, generates placements, collections management, and stair-step history and recovery reports. All this is securely accessible in real-time from any browser.

For its internal operations, CCSA has invested in a state-of-the-art predictive dialing as well as sophisticated call monitoring/online-coaching infrastructure.

We interface with our skip tracing partners on an electronic basis. We can submit 100,000 accounts and get information back on them within hours.

### OPERATIONAL SCOPE

CCSA is licensed to collect nationwide and over all time zones. We provide primary and secondary contingency debt collections services, a fixed rate letter service and utilize internal and vendor provided scoring models. We report to all three credit bureaus and leverage comprehensive skip-tracing databases. We comply with all federal regulations (FDCPA, FCRA, etc.) and are members in good standing of ACA International, the Association of Credit and Collection professionals.

With a state-of-the-art technological infrastructure, seasoned management and collection teams, customer-service oriented collections approach, and superior quality control and compliance programs, CCSA is uniquely positioned to offer its clientele a fully customizable recovery solution which maximizes collection results while minimizing associated risks. We offer our services in a variety of different verticals or asset classes. Our specialties are Auto Deficiency, Bankcard or Retail Card, Medical and Security Monitoring Accounts.

### CCSA, LLC

(877) 746-4044  
 (303) 374-8031  
 info@cherrycreeksa.com  
 17011 Lincoln Avenue #628  
 Parker, CO 80134



[Make a payment on your account](#)

*This is an attempt to collect a debt and any information obtained will be used for that purpose.*

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## Exhibit C

## Call Log

8/5/2013 @ 7:58 PM from 303-327-9003/Cherry Creek Strategic Advisors  
prerecorded / Automated voicemail, CB # 877-746-4044

8/6/2013 @ 7:25 PM from 303-327-9003/Cherry Creek S. A.  
left prerecorded / automated voicemail

8/7/2013 @ 1:58 PM from 303-327-9003/Cherry Creek S. A.  
left prerecorded / automated voice message

8/8/2013 @ 5:15 PM from 303-327-9003/Cherry Creek S. A.  
left prerecorded / automated voice message

8/12/2013 @ 7:00 PM from 303-327-9003/Cherry Creek S. A.  
left prerecorded / automated voice message

8/14/2013 @ 11:21 AM from 303-327-9003/Cherry Creek S. A.  
left prerecorded / automated voice message

8/19/2013 @ 6:55 PM from 877-746-4044 / Cherry Creek S. A.  
left prerecorded / automated voicemail

8/15/2013 @ 5:37 PM from 303-327-9003 / Cherry Creek S. A.

8/19/2013 @ 3:34 PM from 303-327-9003 / Cherry Creek S. A.

8/20/2013 @ 7:08 PM from 877-746-4044 / Cherry Creek S. A.  
left prerecorded / automated voice message

8/26/2013 @ 3:34 PM from 877-746-4044 / Cherry Creek S. A.

8/22/2013 @ 5:53 PM from 303-327-9003 / Cherry Creek S. A.  
left prerecorded / automated voice message

— the same calling pattern continued through approx. 10/10/2013 —

\*

Phone		1:26
	<b>8/8/13</b>	5:15 p
	(303) 327-9003	
	Duration: 00:00	
	<b>8/7/13</b>	1:56 p
	(303) 327-9003	
	Duration: 00:00	
	<b>8/6/13</b>	7:25 p
	(303) 327-9003	
	Duration: 00:00	
	<b>8/5/13</b>	7:58 p
	(303) 327-9003	
	Duration: 00:00	



Phone



8:43



8/19/13

5:34 p

(303) 327-9003

Duration: 00:00

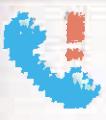


8/15/13

5:37 p

(303) 327-9003

Duration: 00:00



8/14/13

11:21 a

(303) 327-9003

Duration: 00:00



8/12/13

7:00 p

(303) 327-9003

Duration: 00:00



8/9/13

6:14 p

(303) 327-9003

Duration: 00:00



8/8/13

5:15 p

(303) 327-9003

Duration: 00:00

Call



Menu

